

## HUMAN SERVICES DEPARTMENT[441]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 217.6, 252B.3(3), and 252H.4(4), the Department of Human Services proposes to amend Chapter 95, “Collections,” and Chapter 99, “Support Establishment and Adjustment Services,” Iowa Administrative Code.

The Federal Family Support Act of 1988 requires each state to maintain uniform child support guidelines and criteria and to review the guidelines and criteria at least once every four years. The Iowa General Assembly has entrusted the Iowa Supreme Court with this responsibility (see Iowa Code section 598.21B). These amendments update rule 441—95.1(252B) and Chapter 99, Divisions I, II (Part B), III, and V, to conform to Iowa Supreme Court Guidelines changes, to conform to a statutory change regarding administrative paternity adopted in 2012, and other technical changes related to the establishment and modification of child support.

Any interested person may make written comments on the proposed amendments on or before December 31, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because the amendments are technical changes to conform the rules to the Iowa Supreme Court Guidelines and a statutory change adopted in 2012. The rules and Iowa Code chapters 252A, 252C, 252F and 252H provide for parties’ rights to challenge an action to establish or modify a support order or present the information to a judge if the parties disagree with the support order. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 217.6, 252B.3(3), and 252H.4(4). The following amendments are proposed.

ITEM 1. Amend rule **441—95.1(252B)**, definition of “Responsible person,” as follows:

“*Responsible person*” shall mean a parent, relative or guardian, or any other designated person who is or may be declared to be legally liable for the support of a child or a child’s caretaker. For the purposes of calculating a support obligation pursuant to the mandatory child support guidelines prescribed by the Iowa Supreme Court in accordance with Iowa Code section 598.21B, ~~subsection 4~~, this shall mean the person from whom support is sought.

ITEM 2. Amend subrule 99.2(2) as follows:

**99.2(2)** Social security and Medicare tax deductions, mandatory pensions, and union dues as specified in the Iowa Supreme Court guidelines.

ITEM 3. Amend subrule 99.2(3) as follows:

**99.2(3)** ~~Full cost of health insurance premiums either deducted from wages or paid by a parent or a stepparent, provided the health insurance coverage includes the dependents for whom support is being sought. The parent claiming the deduction shall verify the health insurance premium before the deduction is allowed. Any expected health insurance premiums shall be allowed as a deduction if the parent provides verification of this anticipated expense. Mandatory occupational license fees as specified in the Iowa Supreme Court guidelines.~~

ITEM 4. Amend subrule 99.2(5) as follows:

**99.2(5)** ~~Actual payments of medical support paid pursuant to a court order or administrative order in another order for other children, not the pending matter.~~ All medical support payments shall be verified before being allowed as a deduction and shall be calculated in the same manner as the deductions for support in subrule 99.2(4).

ITEM 5. Rescind subrule **99.2(6)**.

ITEM 6. Renumber subrules **99.2(7)** and **99.2(8)** as **99.2(6)** and **99.2(7)**.

ITEM 7. Amend renumbered subparagraph **99.2(6)“d”(3)** as follows:

(3) Subtract the amount the parent may claim as “credit for child and dependent care expenses” for federal income tax from the amount of child care expenses reported on the financial statement. The difference, ~~rounded to the nearest dollar,~~ is the amount allowed for a deduction in determining income for child support.

ITEM 8. Adopt the following **new** subrule 99.2(8):

**99.2(8)** Cash medical support as specified in the Iowa Supreme Court guidelines.

ITEM 9. Amend rule 441—99.3(234,252B) as follows:

**441—99.3(234,252B) Determining net income.** Unless otherwise specified in these rules, the child support recovery unit shall determine net income as prescribed by the Iowa Supreme Court guidelines.

**99.3(1) Calculating net income.** All includable income and allowable deductions shall be expressed in monthly amounts. Income and corresponding deductions received at a frequency other than monthly shall be converted to equivalent monthly amounts by multiplying the income and corresponding deductions received on a weekly basis by 4.33, on a biweekly basis by 2.17, and on a semimonthly basis by 2. ~~All converted figures shall be rounded to the nearest dollar.~~

**99.3(2)** No change.

ITEM 10. Amend subrule 99.4(1) as follows:

**99.4(1) ~~Selecting guidelines chart~~ Applying the guidelines.** The child support recovery unit shall use the child support guidelines ~~chart~~ schedule as prescribed by the Iowa Supreme Court only for the number of children for whom support is being sought sharing the same two legal parents.

EXCEPTION: For foster care recovery cases, the guidelines ~~chart~~ schedule shall be used as set forth in ~~paragraph 99.5(4)“e.”~~ subrule 99.5(4).

ITEM 11. Amend paragraph **99.4(2)“a”** as follows:

*a. Calculation.* The child support recovery unit shall calculate the amount of support ~~required under as prescribed by the Iowa Supreme Court guidelines as follows:~~

~~(1) Determine the net monthly income of the custodial parent.~~

~~(2) Determine the net monthly income of the noncustodial parent.~~

~~(3) Use the chart for the appropriate number of children and the respective incomes of the parents to determine the appropriate percentage to apply.~~

~~(4) Multiply the noncustodial parent’s net monthly income by the percentage determined appropriate. Round this the amount of support to the nearest whole dollar.~~

ITEM 12. Amend subparagraph **99.4(2)“b”(2)** as follows:

(2) In foster care cases, CSRU may establish current support payable in monthly or weekly frequencies. To establish a weekly amount, CSRU shall divide the figure in ~~subparagraph 99.4(2)“a”(4)~~ paragraph 99.4(2)“a” by 4.33 and round to the nearest whole dollar.

ITEM 13. Amend subrule 99.4(5) as follows:

**99.4(5) Extraordinary visitation adjustment.** The extraordinary visitation adjustment is a credit ~~to the guideline amount of child support~~ as specified in the supreme court guidelines. The credit shall not reduce the child support amount below the ~~minimum support~~ amount required by the supreme court guidelines.

The extraordinary visitation adjustment credit shall be given if all of the following apply:

a. to c. No change.

ITEM 14. Adopt the following **new** subrule 99.4(6):

**99.4(6) Establishing medical support.** The child support recovery unit shall calculate medical support as required by Iowa Code chapter 252E and the Iowa Supreme Court guidelines. The cost of the health insurance premium for the child is added to the basic support obligation and prorated between the parents as provided in the Iowa Supreme Court guidelines, and the parent ordered to provide health insurance must provide verification of this expense or anticipated expense.

ITEM 15. Amend subrule 99.5(1) as follows:

**99.5(1) Criteria for deviation.** The court shall not vary from the amount of child support that would result from application of the guidelines without a written finding as required by the Iowa Supreme Court guidelines. ~~Variation from the child support guidelines shall not be considered without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate under the following criteria:~~

- ~~a. Substantial injustice would result to the obligor, the obligee, or the child.~~
- ~~b. Adjustments are necessary to provide for the needs of the child and to do justice between the parties under the special circumstances of the case.~~
- ~~c. In certain foster care cases, adjustments are necessary due to expenses related to the goals and objectives of the case permanency plan or other circumstances contemplated in Iowa Code section 234.39.~~

ITEM 16. Amend subrule 99.5(4) as follows:

**99.5(4) Foster care case.** In a foster care case, the child support recovery unit may deviate from the guidelines by applying a 30 percent flat rate deduction for parents who provide financial documentation. The flat rate deduction represents expenses under the case permanency plan and financial hardship allowances or other circumstances contemplated in Iowa Code section 234.39.

~~a. and b. Rescinded IAB 5/5/99, effective 7/1/99.~~

~~c.~~ CSRU shall calculate the support obligation of the parents of children in foster care when the parents have a legal obligation for additional dependents in the home, as follows: The support obligation of each parent shall be calculated by allowing all deductions the parent is eligible for under the child support guidelines as provided in rule 441—99.2(234,252B) and by using the guidelines ~~chart~~ schedule corresponding to the sum of the children in the home for whom the parent has a legal obligation and the children in foster care. The calculated support amount shall be divided by the total number of children in foster care and in the home to compute the support obligation of the parent for each child in foster care.

ITEM 17. Amend rule 441—99.22(252F) as follows:

**441—99.22(252F) Mother’s certified statement.** Before initiating an action under Iowa Code chapter 252F, the unit may obtain a signed ~~Paternity Questionnaire, Form 470-0172~~ Child Support Information, Form 470-3877, or Establishment Questionnaire, Form 470-3929, or a similar document from the child’s caretaker. The unit shall obtain the Mother’s Written Statement Alleging Paternity, Form 470-3293, from the child’s mother certifying, in accordance with Iowa Code section 622.1, that the man named is or may be the child’s biological father. ~~A similar document~~ Government records, including but not limited to an application for public assistance, which substantially ~~meets~~ meet the requirements of Iowa Code section 622.1 may also be used. In signing Form 470-3293 ~~or similar document~~, the mother acknowledges that the unit may initiate a paternity action against the alleged father, and she agrees to accept service of all notices and other documents related to that action by first-class mail. The mother shall sign and return Form 470-3293 ~~or a similar document~~ to the unit within ten days of the date of the unit’s request.

ITEM 18. Amend rule 441—99.23(252F) as follows:

**441—99.23(252F) Notice of alleged paternity and support debt.** Following receipt of the Mother’s Written Statement Alleging Paternity, Form 470-3293, ~~or a similar document~~ government records, including but not limited to an application for public assistance, which substantially ~~meets~~ meet the

requirements of Iowa Code section 622.1, the unit shall serve a notice of alleged paternity and support debt as provided in Iowa Code section 252F.3.

ITEM 19. Amend rule 441—99.29(252F) as follows:

**441—99.29(252F) Agreement to entry of paternity and support order.** If the alleged father admits paternity and reaches agreement with the unit on the entry of an order for support, the father ~~shall~~ may acknowledge his consent on the ~~Administrative Paternity Order, Form 470-3294~~ Child Support Declaration, Form 470-4084. If the mother does not contest paternity within the allowed time period or if the mother waives the time period for contesting paternity, the unit ~~shall~~ may file the Child Support Declaration, if applicable, and Administrative Paternity Order with the court in accordance with Iowa Code section 252F.6.

ITEM 20. Amend subrule 99.41(1) as follows:

**99.41(1) When order may be established.** The bureau chief may establish a child or medical support obligation against a responsible person through the administrative process. This does not preclude the child support recovery unit from pursuing the establishment of an ongoing support obligation through other available legal proceedings. When gathering information to establish a support order, the unit may obtain a signed ~~Form 470-3929~~, Child Support Information, Form 470-3877, or Establishment Questionnaire, Form 470-3929, or a similar document from the child's caretaker.

~~a. to d. Rescinded IAB 11/6/96, effective 1/1/97.~~

ITEM 21. Amend subrule 99.41(3) as follows:

**99.41(3) Notice to responsible person.** When the bureau chief establishes a support debt against a responsible person, a notice of child support debt shall be served in accordance with the Iowa Rules of Civil Procedure or Iowa Code section 252B.26. The notice shall include all of the rights and responsibilities shown in Iowa Code section 252C.3. The notice shall also inform the responsible person which of these rights may be waived pursuant to Iowa Code section 252C.12, and the procedures for and effect of waiving these rights. The notice shall include a statement that failure to respond within the time limits given and to provide information and verification of financial circumstances shall result in the entry of a default judgment for support.

ITEM 22. Amend paragraph **99.41(9)“b”** as follows:

~~b. The bureau chief shall file a copy of the approved order with the clerk of the district court, as stated in 441—paragraph 95.11(7)“b.”.~~

ITEM 23. Amend paragraph **99.83(2)“a”** as follows:

~~a. A parent requests, in writing, or the unit determines that it is appropriate to add an additional child to the support order and modify the obligation amount according to the guidelines pursuant to Iowa Code section 598.21(4)~~ 598.21B and Iowa Code section 252B.7A; and